

Message Text

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ACTION L-03

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DODE-00 PM-04 H-02 INR-07 NSAE-00 NSC-05 PA-01 PRS-01

SP-02 SS-15 USIA-06 EB-07 NRC-05 TRSE-00 ERDA-05

COME-00 OPIC-03 /086 W

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R 140701Z NOV 75

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 1220

INFO AMCONSUL MEDAN

AMCONSUL SURABAYA

C O N F I D E N T I A L JAKARTA 13984

EO 11652: GDS

TAGS: MASS PGOV BGEN ID US

SUBJ: MUNITIONS CONTROL AND AGENTS FEES

REF: A. STATE 255260 B. STATE 258169

1. AS DISCUSSED IN OUR REPLY TO REF B (SEPTTEL), IT IS COMMON PRACTICE IN INDONESIA FOR BUSINESS FIRMS TO EMPLOY AGENTS WHEN SEEKING SALES CONTRACTS WITH GOI AGENCIES, INCLUDING DEPARTMENT OF DEFENSE AND SECURITY AND INDIVIDUAL ARMED SERVICES. AS RECENT CONGRESSIONAL INVESTIGATION OF LOCKHEED ACTIVITIES HERE TEN YEARS AGO HAS DISCLOSED, THIS SYSTEM IS CLEARLY OPEN TO ABUSE AS CHANNEL FOR PAYOFFS AND KICKBACKS.

2. EMBASSY CAN OFFER ONLY TENTATIVE ASSESSMENT OF POSSIBLE GOI REACTION TO USG STEPS TO REQUIRE DISCLOSURE OF AMOUNT AND RECIPIENT OF AGENTS FEES IN FMS AND COMMERCIAL MILITARY SALES TRANSACTIONS. (IN ABSENCE SPECIFIC AUTHORIZATION IN REFTTEL, WE HAVE NOT RAISED MATTER WITH ANY GOI OFFICIALS.) THE GOI HAS NEVER VOLUNTEERED ANY INTEREST IN DISCLOSURES OF AGENTS' FEES. WE HAVE RECEIVED LITTLE COMMENT FROM GOI OFFICIALS TO
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WHOM WE HAVE FURNISHED COPIES OF DOCUMENTS IN LOCKHEED CASE. ON

OTHER HAND, AIR ATTACHE WAS RECENTLY TOLD THAT INDONESIAN AIR FORCE CHIEF OF STAFF HAS DIRECTED HIS SUBORDINATES TO LIMIT ACCEPTANCE OF ENTERTAINING FROM AGENTS AND IS EVEN CONSIDERING PROHIBITING USE OF AGENTS IN AIR FORCE CONTRACTS--PROBABLY PARTLY DUE TO CONCERN OVER LOCKHEED DISCLOSURES. WE BELIEVE MANY HIGHER LEVEL GOI OFFICIALS ARE INCREASINGLY AWARE OF ADVERSE IMPACT WHICH SUCH PRACTICES COULD HAVE ON INDONESIA'S CONTINUED ACCESS TO US MILITARY ASSISTANCE AND SALES. WE DOUBT THAT GOI WOULD TURN DOWN INFORMATION ON AGENTS FEES IF OFFERED, ALTHOUGH THERE MIGHT BE CONCERN THAT FOCUSING GREATER ATTENTION ON THESE FEES WOULD CREATE PRESUMPTION THAT GOI OFFICIALS WERE PROFITING IMPROPERLY FROM THEM. WE ARE NOT SANGUINE THAT DISCLOSURE WOULD LEAD TO GOI ACTION TO PREVENT ABUSES OR THAT GOI WOULD REQUIRE DISCLOSURE BY NON-US FIRMS.

3. IN MISSION'S JUDGEMENT, REQUIREMENT FOR DISCLOSURE WOULD MAKE US FIRMS MORE CAUTIOUS IN DEALING WITH LOCAL AGENTS AND WOULD PROBABLY BE IMPORTANT INDUCEMENT TO COMPANIES TO KEEP PAYMENTS TO AGENTS WITHIN BOUNDS. HOWEVER, USG INTERVENTION IN THIS SENSITIVE AREA COULD ALSO AFFECT SALES CLIMATE HERE FOR US FIRMS. USDLG HAS HAD INDICATIONS THAT UNEASINESS OVER LOCKHEED AND NORTHROP INVESTIGATIONS MAY HAVE BEEN AN ELEMENT IN RECENT GOI DECISION TO MAKE MILITARY PURCHASES FROM NON-US SOURCES, EG SELECTION OF DUTCH FIRM TO BUILD FRIGATES FOR NAVY. REQUIRING DISCLOSURE OF AGENTS FEES COULD CREATE COMPETITIVE DISADVANTAGE FOR US FIRMS, PARTICULARLY IF, AS SEEMS VERY POSSIBLE, GOI DOES NOT REQUIRE DISCLOSURE BY NON-US FIRMS. KEY FACTOR WOULD BE EXTENT TO WHICH THERE IS DISCREPANCY BETWEEN US AND THIRD COUNTRY FIRMS IN LEEWAY TO EMPLOY AND COMPENSATE AGENTS.

4. IN SUM, WE BELIEVE THAT REQUIRING DISCLOSURE OF AGENTS FEES CAN BE EFFECTIVE MEANS OF LIMITING EXCESSIVE PAYMENTS AND OTHER ABUSES BY US FIRMS. HOWEVER, THIS IS LIKELY TO BE ACHIEVED ONLY AT SOME COST IN TERMS OF COMPETITIVENESS OF US FIRMS, IN VIEW OF LIKELIHOOD THAT THIRD COUNTRY FIRMS WILL NOT BE SUBJECT TO SIMILAR LIMITATIONS. NEWSOM

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